

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

**SEAWORLD SAN DIEGO
500 SEAWORLD DRIVE
SAN DIEGO, CALIFORNIA
WDID NO. 9 000000083**

COMPLAINT NO. R9-2004-0085

FOR

ADMINISTRATIVE CIVIL LIABILITY

WITH

MANDATORY MINIMUM PENALTIES

**NONCOMPLIANCE WITH ORDER NO.
2000-25, NPDES NO. CA0107336, WASTE
DISCHARGE REQUIREMENTS FOR
SEA WORLD SAN DIEGO, SAN DIEGO
COUNTY, DISCHARGE TO MISSION BAY**

MARCH 22, 2004

SEA WORLD SAN DIEGO IS HEREBY GIVEN NOTICE THAT:

1. Sea World San Diego is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, Water Code section 13385 et seq.
2. A public hearing on this matter is tentatively scheduled before the Regional Board on June 9, 2004, at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 a.m. At the hearing, Sea World San Diego will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. Additional notice of this public hearing and the hearing procedures will be provided to Sea World San Diego prior to the hearing date with the agenda for the Regional Board meeting.
3. At the hearing, the Regional Board will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

ALLEGATIONS

4. On September 7, 2000, Sea World San Diego violated Order No. 2000-25, *NPDES No. CA0107336, Waste Discharge Requirements for Sea World San Diego, San Diego County, Discharge to Mission Bay*. The violations are due to an exceedance of the total suspended solids daily maximum and monthly average effluent limitations as reported in the July-September 2000 quarterly monitoring report.
5. On August 20, 2002, Sea World San Diego violated Order No. 2000-25 due to an exceedance of the fecal coliform effluent limitation as reported in the August 2002 monthly

monitoring report.

6. On October 2, 2002, Sea World San Diego violated Order No. 2000-25 due to an exceedance of the enterococcus effluent limitation as reported in the October monthly monitoring report.

The following facts are the basis for the alleged violations in this matter:

- a. On April 12, 2000, the Regional Board adopted Order No. 2000-25 establishing waste discharge requirements for the discharge of up to 3.24 million gallons per day through the east outfall or 6.12 million gallons per day through the west outfall to Mission Bay.
- b. Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Water Code section 13385(h)(2) states that a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more. Total suspended solids is a Group I pollutant.

The Discharge Specification section of Order No. 2000-25 states that the total suspended solids monthly average effluent limitation is 10 mg/L. On September 7, 2000, Sea World San Diego reported a total suspended solids result of 18 mg/L, which is more than 40% greater than the monthly average Discharge Specification. Therefore, this is classified as a serious violation.

One serious violation is assessed \$3,000.

- c. Section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each chronic violation whenever a person violates a waste discharge requirement four or more times in any period of six consecutive months. Chronic violations also include any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group I pollutant and does not exceed the effluent limitation by 40 percent.
 - i. On September 7, 2000, Sea World San Diego reported a total suspended solids result of 18 mg/L from the west outfall, which is not 40% greater than the daily maximum discharge specification of 50 mg/L. This violation is the eighth waste discharge requirement violation in six consecutive months and is therefore classified as a chronic violation.
 - ii. On August 20, 2002, Sea World San Diego reported a fecal coliform result of 1700 MPN/100mL from the west outfall, which caused an exceedance in

March 22, 2004

more than 10 percent of the samples for the 30-day period. This is the fourth waste discharge requirement violation in six consecutive months and is therefore classified as a chronic violation.

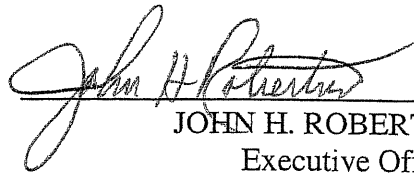
- iii. On October 2, 2002, Sea World San Diego reported an enterococcus result of 280 CFU/100 mL, which exceeded the maximum at any time effluent limitation. This is the fifth waste discharge requirement violation in six consecutive months.

Three chronic violations are assessed \$3,000 per violation, giving a subtotal of \$9,000 for chronic violations.

PROPOSED CIVIL LIABILITY

8. Pursuant to Sections 13385(h) and (i) of the Water Code a mandatory minimum penalty should be imposed on Sea World San Diego in the amount of \$12,000, the amount of the mandatory minimum penalty for the above violations.

Dated this 22nd day of March 2004


JOHN H. ROBERTUS
Executive Officer